

**FILED**

**CLERK**

**Box.com**

**12/7/2023**

**U.S. DISTRICT COURT**

**EASTERN DISTRICT OF NEW YORK**

**LONG ISLAND OFFICE**

December 7, 2023

Diane T. Clarke  
The Legal Aid Society of Nassau County, NY  
40 Main Street, 3<sup>rd</sup> Floor  
Hempstead, New York 11550  
Office phone: (516) 560-6400, Ext 06427  
Cell phone: (516) 967-0595  
Email address: Clarkedt4@gmail.com

**Re: Clarke et al. v. The Association of  
Legal Aid Attorneys, Amalgamated Local  
Union 2325 of the International Union,  
United Automobile, Aerospace and  
Agricultural Implement Workers of America  
(UAW) AFL-CIO et al.**

**Case 2:23-cv-08869-NJC-ARL  
(Choudhury, J.; Lindsay, M.J.)**

Civil Clerk's Office  
United States District Court  
Eastern District of New York  
225 Cadman Plaza East  
Brooklyn, New York 11201  
**Via NYED Pro Se Electronic Document Submission**

Dear Chief Clerk:

I am the first-named Plaintiff in the above-referenced civil litigation.

All four Plaintiffs are attorneys employed by The Legal Aid Society of Nassau County, NY.

The above action was commenced in the Supreme Court, Nassau County, under Nassau County Index No. 618764-2023 (Muraca, J.). All four of we Plaintiffs are represented in that state Court action by The Law Office of David A. Smith, PLLC, by David A. Smith, Esq.

However, the Defendants, all of whom are represented by the same attorneys, have now removed the action to this Court. Our attorney in the state Court action is not admitted to practice in this Court, nor in any of the Federal Courts.

I am therefore writing this emergency letter to this Court *pro se*.

The emergency nature of this letter is as follows: On December 6, 2023 -- just yesterday -- counsel for the Defendants filed with this Court the attached "NOTICE OF MOTION (ORAL ARGUMENT REQUESTED)", with a notice of motion return date of tomorrow, Friday, December 8, 2023 at 9:00 a.m. at the Cadman Plaza Courthouse.

I and my three Co-Plaintiffs are presently and concertedly attempting to engage counsel that is admitted in the USDC for the EDNY to represent us in this litigation before this Court, and we expect to be able to do so within no more than one week. In the meantime, however, and without undertaking to represent myself in this matter, which I am not qualified to do, I must point out the following irregularities and improprieties of the Defendants' attached "NOTICE OF MOTION":

1. This action has been assigned by this Court to Judge Choudhury and Magistrate Judge Lindsay. They both are based in the Central Islip Courthouse of this Court. The "NOTICE OF MOTION (ORAL ARGUMENT REQUESTED)", which states that it is returnable Cadman Plaza tomorrow morning (December 8, 2023) at 9:00 a.m., is therefore facially defective.

2. FRCP Rule 65(b)(4) permits a party to make a "Motion to Dissolve" a restraining order on just 2 (two) days' notice only where the said restraining order was obtained "... without notice ..." to the restrained party. (Emphasis supplied.) In this case, the restraining order was issued on notice to all of the Defendants. Oral argument on the application for the temporary restraining order was conducted by telephone before Nassau County Supreme Court Justice Muraca on Friday, November 17, 2023 at approximately 4:15 p.m., for which I was present in the conference room of my attorneys' office while the telephone conference with Justice Muraca was taking place. During that oral argument, all of the Defendants in this action were represented by the same attorneys who has now appeared before this Court as their attorney, Allyson L. Belovin, Esq. Only after that oral argument did Justice Muraca issue the Temporary Restraining Order dated November 17, 2023. Thereafter, this case was adjourned for full oral argument on November 21, 2023, whereupon Justice Muraca reserved Decision and afforded Defendants the opportunity to file a Sur Reply to Plaintiffs' Reply Affirmation filed the night before that more expansive hearing took place on November 21, 2023. Accordingly, the two-day notice provided on the Defendants' current "NOTICE OF MOTION (ORAL ARGUMENT REQUESTED)" is not authorized by FRCP Rule 64(b)(4).

3. Individual Rules of both Judge Choudhury and Magistrate Judge Lindsay, to whom this action is assigned, both provide that any moving papers (which of course must be served on notice to all adversary parties) may request oral argument,



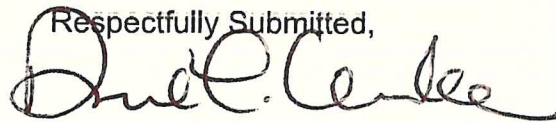
and that the Court will then decide whether, and when, to schedule oral argument. (See Individual Rules of Judge Choudhury, at Rule 5.7; and Individual Practices of Magistrate Judge Lindsay, 2 C 4, under the heading "*General Motion Practices*". Here, the "NOTICE OF MOTION (ORAL ARGUMENT REQUESTED)" flies in the face of these specific requirements by purporting to set the date, time and place for submission and/or oral argument.

Moreover, we anticipate submitting a motion to remand this action to State Court, where this matter properly belongs. Simply stated, counsel for the Defendants are not entitled to change the nature and character of the causes of action asserted against them from those that are actually set forth in Plaintiffs' underlying Verified Complaint in a desperate attempt to frame this case as involving issues that require it to be removed to Federal Court.

For all of the above-stated reasons, your pro se Plaintiff prays that this Court reject out of hand the facially defective "NOTICE OF MOTION (ORAL ARGUMENT REQUESTED)" of Defendants' counsel that is annexed to this letter; require that the Defendants, should they choose to start over again, make the motion in compliance with the Rules of Judge Choudhury and of Magistrate Judge Lindsay; and, of course, that the Defendants make their motion in the Central Islip Federal Courthouse where both Judge Choudhury and Magistrate Judge Lindsay preside.

Because the said "NOTICE OF MOTION (ORAL ARGUMENT REQUESTED)" is made returnable by Defendants tomorrow morning at 9:00 a.m., I respectfully request a response from the Court prior thereto, for which I thank you in advance.

Respectfully Submitted,



Diane T. Clarke  
Plaintiff pro se, pending engagement  
of Federal Court counsel

cc: Allyson L. Belovin, Esq.  
Co-Counsel for All Defendants  
**Via email to: [abelovin@levyratner.com](mailto:abelovin@levyratner.com)**

Aleksander L. Felstiner, Esq.  
Co-Counsel for All Defendants  
**Via email to: [afelstiner@levyratner.com](mailto:afelstiner@levyratner.com)**

UNITED STATES DISTRICT COURT FOR THE  
EASTERN DISTRICT OF NEW YORK

-----X  
DIANE T. CLARKE, ILANA KOMPAR, ISAAC  
ALTMAN and DAVID ROSENFELD,

Plaintiffs,

-against-

THE ASSOCIATION OF LEGAL AID ATTORNEYS,  
AMALGAMATED LOCAL UNION 2325 OF THE  
INTERNATIONAL UNION, UNITED AUTOMOBILE,  
AEROSPACE AND AGRICULTURAL IMPLEMENT  
WORKERS OF AMERICA (UAW), AFL-CIO, LISA  
OHTA, BRET J. TAYLOR, JEREMY BUNYANER,  
EMILY C. EATON, MARTYNA KAZNOWSKI,  
GILLIAN R. KRESS, IOANA CALIN, and PUJA PAUL,

**NOTICE OF MOTION**  
**(ORAL ARGUMENT**  
**REQUESTED)**

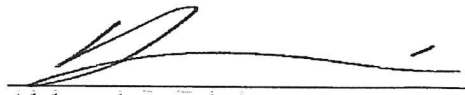
Case No: 2:23-cv-08869  
(NJC) (ARL)

Defendants.  
-----X

PLEASE TAKE NOTICE that upon the annexed declaration of Lisa Ohta sworn to on December 5, 2023, Memorandum of Law, and upon all the prior pleadings and proceedings had herein, the Defendants will move this Court located at 115 Cadman Plaza East, Brooklyn, New York 11202 on the 8th day of December, 2023, at 9 o'clock, or as soon thereafter as can be heard for an Order dissolving the temporary restraining order issued by the Supreme Court for the State of New York, Nassau County on November 17, 2023.

Dated: December 5, 2023  
New York, New York

LEVY RATNER, P.C.

  
By: Aleksandr L. Felstiner  
Attorneys for Defendants  
80 Eighth Avenue, 8<sup>th</sup> Floor  
New York, New York 10011  
(212) 627-8100  
(212) 627-8182 (fax)  
afelstiner@levyratner.com



MOTION SEQUENCE# 1  
ORIGINAL RETURN DATE 11/21/23  
RELIEF OTRO

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NASSAU

-----X  
DIANE T. CLARKE,  
ILANA KOPMAR, ISAAC ALTMAN,  
DAVID ROSENFELD,

Plaintiffs,

— against —

THE ASSOCIATION OF LEGAL AID  
ATTORNEYS, AMALGAMATED LOCAL  
UNION 2325 OF THE INTERNATIONAL  
UNION, UNITED AUTOMOBILE, AEROSPACE  
AND AGRICULTURAL IMPLEMENT  
WORKERS OF AMERICA (UAW), AFL-CIO,  
LISA OHTA, BRET J. TAYLOR, JEREMY  
BUNYANER, EMILY C. EATON, MARTYNA  
KAZNOWSKI, GILLIAN R. KRESS,  
IOANA CALIN, PUJA PAUL,

Defendants:  
-----X

At IAS Part 41 of the  
Supreme Court of the  
State of New York held in  
and for the County of  
Nassau at the Courthouse  
located at 100 Supreme  
Court Drive, Mineola, New  
York on the 17<sup>th</sup> day of  
Nov., 2023.

Order to Show Cause With  
Temporary Restraining Order  
and Prayer for Injunctive Relief

Index No.: 618764-23

Hon: Felice Muraca

HON. FELICE J. MURACA  
ajsc

In Person  
Appearance Required  
on Return Date

Upon reading and filing the Verified Complaint Seeking Temporary Restraining Order and  
Injunctive Relief herein dated November 16, 2023 and the exhibit thereto, and suffice cause  
appearing therefor,

LET the Defendants herein, and each of them, SHOW CAUSE before this Court on the  
21<sup>st</sup> day of November, 2023, at 10:30 A.M. in person,  
Part 41, at 100 Supreme Court Drive, Mineola, New York 11501, at  
Part 41, or as soon thereafter as counsel can be heard, why this Court should not grant  
the Petitioners and as against the Defendants all of the relief sought in the Verified Complaint  
herein; and it is further

ORDERED that, based upon the specific allegations set forth in the Verified Complaint  
herein by which the need for a Temporary Restraining Order was demonstrated to the satisfaction

of this Court, that, pending the hearing and determination of this action,; and the individual Defendants each having been provided pursuant to Uniform Rules of Court Part the Defendants herein, and each of them, be and hereby are

RESTRAINED AND ENJOINED, pending the hearing and determination of this action, from distributing for a vote to the membership of the Association of Legal Aid Attorneys, or otherwise causing to be distributed or disseminated to the said membership or putting to a vote by such members, a certain document entitled "Resolution Calling for a Ceasefire in Gaza, an End to the Israeli Occupation of Palestine"; and it is further

ORDERED, that service upon each of the individual Defendants herein shall be made by delivering to them a copy of this Order to Show Cause and the papers upon which it is based by e-mail sent to the professional e-mail addresses published by each of the individual Defendants on the website of the Defendant ASSOCIATION OF LEGAL AID ATTORNEYS, and that service of the ASSOCIATION OF LEGAL AID ATTORNEYS be made by e-mail sent to the e-mail address of the Defendant herein who is identified on their website as the President thereof, who is Defendant LISA OHTA; and it is further

ORDERED, that answering papers, if any be served via e-mail on Plaintiffs' attorney, David A. Smith, Esq., to Dave153@aol.com, by 11/20/23 not less than day in advance of the return date of this Order to Show Cause.

ENTER:

A Justice of the Supreme Court

HON. FELICE J. MURACA  
A.J.S.C.

-2-

ENTERED  
Nov 17 2023

NASSAU COUNTY  
COUNTY CLERK'S OFFICE